

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

WINGS PLATINUM, LLC

Plaintiff,

v.

**WESTCHESTER SURPLUS LINES
INSURANCE COMPANY,**

Defendant.

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CIVIL ACTION NO. 3:23-cv-02145

DEFENDANT’S NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, Defendant, Westchester Surplus Lines Insurance Company (“Westchester”), files this Notice of Removal and respectfully shows that diversity subject-matter jurisdiction exists and removal is timely.

**I.
REMOVAL IS TIMELY**

1. On August 1, 2023, Plaintiff filed its Original Petition in the matter styled Cause No. DC-23-10770 *Wings Platinum LLC v. Westchester Surplus Lines Insurance Company* in the 14th District Court of Dallas County, Texas.

2. Westchester received notice of this lawsuit on September 7, 2023, through service.

3. Under federal law, “notice of removal of a civil action or proceeding shall be filed within 30 days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based” 28 U.S.C. § 1446(b)(1).

4. Westchester files this Notice of Removal within the thirty-day time period. *See* 28 U.S.C. § 1446(b). Accordingly, removal of this action is timely.

II.
DIVERSITY OF CITIZENSHIP

5. Removal is proper under 28 U.S.C. § 1332(a)(1), because there is currently complete diversity of citizenship, and complete diversity existed on the date the state court case was filed.

6. Plaintiff is a limited liability corporation existing under the laws of the State of Texas. Its sole member is a resident of and domiciled in the State of Texas.

7. Westchester is an insurance company incorporated in the State of Georgia, with its principal place of business in the Commonwealth of Pennsylvania. Therefore, Westchester is a citizen of the State of Georgia and the Commonwealth of Pennsylvania.

8. There is diversity of citizenship.

III.
VENUE IS PROPER

9. Venue is proper in the United States District Court for the Northern District of Texas, Dallas Division, under 28 U.S.C. §§ 124 and 1446, since it is the district and division within which such action is pending in state court.

IV.
AMOUNT IN CONTROVERSY

10. The amount in controversy exceeds the \$75,000.00 threshold required to invoke this Court's jurisdiction. 28 U.S.C. § 1332(a). Plaintiff's Petition, demands relief exceeding \$1,000,000.

V.
REMOVAL IS PROCEDURALLY CORRECT

11. Pursuant to 28 U.S.C. § 1446(a) and Local Rule 81, attached hereto is:

a. All process in the case (**Exhibit A**).

- b. Pleadings asserting causes of action, *e.g.*, petitions, counterclaims, cross actions, third-party actions, interventions and all answers to such pleadings (**Exhibits B and C**);
- c. All orders signed by the state judge (None);
- d. The docket report (**Exhibit D**);
- e. An index of all matters being filed (**Exhibit E**); and
- f. A list of all counsel of record, including addresses, telephone numbers and parties represented (**Exhibit F**).

12. Pursuant to 28 U.S.C. § 1446(d), promptly after Westchester files this Notice of Removal, written notice of the filing will be given to Plaintiff.

13. Pursuant to 28 U.S.C. § 1446(d), promptly after Westchester files this Notice of Removal, a true and correct copy will be filed with the District Clerk of Dallas County, Texas.

VI. **CONCLUSION**

WHEREFORE, Westchester respectfully requests that this action now pending in the 14th Judicial Court of Dallas County, Texas be removed to the United States District Court for the Northern District of Texas, Dallas Division, and for the Court to grant Westchester any such other and further relief to which it may be justly entitled, at law or in equity.

Respectfully submitted:

By: /s/ Stephen P. Pate
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ATTORNEY FOR DEFENDANT

CERTIFICATE OF SERVICE

This certifies that, on September 26, 2023, of the foregoing was served on the following counsel of record pursuant to the Federal Rules of Civil Procedure.

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Attorneys for Plaintiff

/s/ Stephen P. Pate
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